

**Lewis County Planning Commission
Public Meeting
Lewis County Courthouse
351 NW North St.
Chehalis, WA 98532**

**July 26, 2011
Meeting Notes**

Planning Commissioners Present: Mike Mahoney, Bob Guenther, Jim Lowery, Richard Tausch, Arny Davis

Planning Commissioners Excused: Bill Russell

Staff Present: Lynn Deitrick, Jerry Basler, Pat Anderson

Others Present: Please see sign-in sheet

Handouts/Materials Used:

- Agenda
- Meeting Notes from July 12, 2011
- Draft Code Changes on Chapters 5.17, 17.300, 16.02 and 17.145
- Letter of Transmittal on Rezone Requests

I. Call to Order

Vice Chair Lowery called the meeting to order at 7:00 p.m. The Commissioners introduced themselves.

II. Old Business

A. Approval of meeting notes from July 12, 2011

Vice Chair Lowery entertained a motion to approve the meeting notes from July 12, 2011.

Commissioner Mahoney made the motion; Commissioner Guenther seconded. The motion carried.

B. 2nd Workshop on Draft Code Changes

Mr. Deitrick stated the purpose of the workshop was to bring any recommended changes to any of the chapters. He called the Commission's attention to Chapter 17.145 regarding fences. In the first paragraph the first sentence reads "rear property lines in all but residential zones". Mr. Deitrick thought that was too ambiguous and perhaps there should be some clarification as to which zones would be exempt or to which zones this would not apply. Some staff recommendations were Small Town Residential (STR), Rural Residential Centers (RRC), and possibly Small Town Mixed Use (STMU) where the fence exception could not be used.

Commissioner Mahoney stated the better definitions would make it easier for Community Development to apply the code. Mr. Deitrick agreed and stated the department did not want to be overly restrictive. If there is a reason why STMU for example should not be included it can be taken out. Staff does not have a comprehensive understanding of all the areas and the Planning Commissioners do.

There were no other comments.

C. Letter of Transmittal on Rezone Requests

Commissioner Mahoney stated the meeting notes indicated the voting was either 4-0 or 3-1 but the Letter of Transmittal shows the voting as 3-0 and 2-1, which he believed to be a typographical error.

Mr. Basler stated that was in error and he would correct that for the signed document.

Vice Chair Lowery stated it appeared there was a consensus of the Planning Commission to change the Hartman rezone and staff did not recommend changing it. Mr. Basler stated all of the requests to be taken out of Agricultural Resource Land (ARL) were not recommended for change by staff.

Vice Chair Lowery asked if the staff report would not be part of the Letter of Transmittal. Mr. Basler stated it would be an attachment as part of the record.

Commissioner Mahoney explained that staff recommended no change and the Planning Commission recommended changes and all of the recommendations would go to the BOCC.

Commissioner Tausch referenced the Rambo request which staff recommended not changing and the staff report reflects that. He did not see the same language on the Hartman staff report. He did not see the Planning Commission's recommendation for the rezone.

Mr. Basler stated that was because the Rambo request was a remand from the BOCC and the staff report shows the previous staff recommendation.

Commissioner Mahoney discussed Request #5 – the Gastfield rezone – and stated had he been in attendance he would have voted for the rezone. He stated his reasons were because the soils were not prime soils because of the steepness. The purpose of people being allowed to challenge their designation was because mistakes were made and the maps were sometimes mistaken. From his recollection, the only reason that property was included was because it was sandwiched between two intense agricultural areas that did belong in ARL. The high ground had not been farmed and would never be farmed and under the criteria one of the things to consider is land values under alternative uses. The ground is worthless as ag ground except for growing timber. In his opinion the high flat ground is a good place to put rural development. He was not recommending changing the vote; he just wanted his opinion known.

Commissioner Guenther stated there was some conversation about Mr. Gastfield getting some of his neighbors to join him to pursue a rezone at the next opportunity. Mr. Basler stated Mr. Gastfield was not happy with the decision but Mr. Basler did suggest that Mr. Gastfield talk to his neighbors to the northeast to see if they could make a combined request.

Vice Chair Lowery asked when there is a situation like this - land in the middle of ag land - is there no exception in GMA to deal with it.

Commissioner Mahoney stated the Planning Commission put it into ag land. The concern about spot zoning is a valid concern in most cases, but here he does not think so. The strip between the nursery and the lower ground is very steep and not farmable. If there is to be any development in the ag zone

that is where it should be. It is in the code that if there was a mistake made in the mapping the property owner had the right to point it out and to have his property taken out of ARL. He believed this property owner had met the burden of proof.

Vice Chair Lowery stated he understood why spot zoning is in the code but when there is land that cannot be farmed and is not really ag land but because it is in the middle of ag land it was designated that way. Is there no exception in GMA to recognize that kind of reality?

Mr. Deitrick stated unfortunately there is not. Local jurisdictions can do blanket rezones for areas that may help in that situation but when an individual wants to do one spot there is no way to accommodate that. Part of the recommendation was for Mr. Gastfield to talk to his neighbors to link to the similar zoning so there is no spot zone that gives one person different rights from people around him.

Vice Chair Lowery stated those rights would be based on the fact that he cannot farm it. Mr. Deitrick stated there is more than just the agricultural identifier of soil types that were used to establish those areas. Those were discussed at the last work session.

Commissioner Mahoney stated early on in the ARL work the Planning Commission looked at zoning large areas but the Growth Management Board sent it back and each parcel had to be looked at for meeting all the criteria. Commissioner Mahoney does not want to pit neighbor against neighbor, but he believed that Mr. Gastfield met the burden of proof and questioned whether the application could be denied legally.

Vice Chair Lowery asked if there was other discussion. There was none.

Mr. Basler stated the Commissioners could authorize Chairman Russell to sign the letter of transmittal the next time he is in town. The Commissioners could authorize Mr. Basler to correct the typographical errors.

Commissioner Guenther asked if the opinions of the Planning Commission are part of the record. Mr. Basler stated the Letter of Transmittal, Attachments A and B and the staff report are part of the record, as well as the meeting notes and a summary of each rezone.

Commissioner Guenther reiterated that when a person puts his intentions for his property on the record there should be some way to hold those people to that statement.

Commissioner Mahoney made a motion that staff corrects Attachment B and then forward the Letter of Transmittal to the BOCC. Commissioner Tausch seconded.

Vice Chair Lowery stated he agreed with the comments made by Commissioners Mahoney and Guenther. He understands the reason for growth management and why planned growth is required for the county; however, when there are rules that don't make sense but they are in areas that cannot be changed, there should be some flexibilities. He did not know if the County Commissioners can do anything but someone needs to talk to the legislators to see if something can be done.

There was no other discussion and the motion passed 3-1 with Commissioner Guenther opposed.

III. Calendar

Mr. Basler stated if there was not a meeting on the 9th he would like to have Chrissie Bailey from DOE come at the end of August to give a presentation regarding the Shoreline Master Program.

The decision was to not meet on August 9; Mr. Deitrick stated he would bring the final drafts of the code chapters on August 23.

IV. Good of the Order

Commissioner Guenther asked staff to explore with the Growth Management Board why they give the Planning Commission the authority to accommodate the citizens at the local level but the Act does not allow the Planning Commission to do that. If they are going to give us the opportunity to help craft how our county should look, then they should not hinder us with blanket coverage. We gave our word to these people that if they came back with a reasonable alternative that we would listen to it. In the case of Mr. Gastfield, we failed.

Commissioner Davis stated if this does go to the Growth Management Board he would like to see a copy of that correspondence go to Senator Dan Swecker, Representative Gary Alexander and Representative Richard De Bolt. They represent our district and they need to be in the loop of us trying to create a positive reaction to what the Growth Management Board has mandated to us. They are our policy makers and they need to be involved in this conversation.

Vice Chair Lowery stated one of the problems with GMA is it was adopted to address areas like King County, Vancouver, Spokane, etc. and they did not take into account how it would impact rural Washington. Now we are struggling with rules that do not apply to our communities and our land. We need to educate the people in Seattle as to what some of our issues are and how they affect us differently than the large areas.

Commissioner Guenther stated the Planning Commission has made a good effort to get the county out of invalidity and to go by the laws of the Growth Management Act. They gave us the opportunity to craft our county and then they tied one hand behind our backs.

Commissioner Mahoney stated he did not like the process when the Planning Commission went through it and he does not like the result. Now if the Planning Commission or individual citizens have complaints we need to deal with the County Commissioners. This is now county ordinance and we did not get the ordinance we wanted because of the hearings board. The BOCC made a decision that they would get us out of invalidity. We do have ordinances that allow us to do things and locally those ordinances are what rule. They can be challenged but a concern from staff in the past was that if we start taking property out of ARL we would end up in court and the county does not have the money for that. Most of us agree that there comes a point where right is right and we can't be afraid of the Sierra Club or any other organization.

He went on to say that we could have an issue with the new critical areas requirements. The Tribes dropped out of the discussion before the end of the process so they are not part of the final agreement.

The environmental groups have agreed they will not sue for three to five years while we give it a chance. The Tribes can take us into federal court at any time. This could potentially be as big a headache as the ARL was because we are talking about watershed issues. Some of the tribes cannot agree amongst themselves, either.

Commissioner Guenther stated his reason for asking to draft the letter was because when the Planning Commission recommended to the BOCC that the citizens could come back, that went into the ordinance. He is not afraid to send that letter out to the hearings board.

Vice Chair Lowery suggested going back over the code and reviewing it. If it is not being applied, why is it in there?

Mr. Deitrick suggested if those are the wishes of the Planning Commission, the letter would be drafted under the Planning Commissioners signature. Mr. Deitrick also reminded the Commissioners that what is going to the Board are recommendations and they can choose to do something different.

Commissioner Mahoney had a request for staff: any future request for a zone change that included ARL, that those requests are evaluated by staff before they make their recommendation with the ordinance in mind.

Commissioner Davis agreed with Mr. Guenther but he thought the letter should go to the BOCC and they should go to the Growth Management Board. He would be happy to sign on that letter, also.

Commissioner Mahoney suggested a meeting with the BOCC rather than a letter.

Commissioner Guenther wanted the County Commissioners to have the Planning Commission's views conveyed [to the Growth Board] if they so choose.

V. Adjourn

There was no other business before the Commission and the meeting adjourned at 7:47 p.m.